


**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be constructed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Chapter 1	Number 8	Effective Date 11/13/08	Review Date 2011
Subject OLEORESIN CAPSICUM (O.C.) SPRAY CANISTER AND FOGGER			<input type="checkbox"/> New Order <input checked="" type="checkbox"/> Replaces G. O. 803-7, (01/08/07)
References CALEA 1.3.4, 1.3.5, 1.3.6c, 1.3.7, 1.3.9a, 1.3.9c, 1.3.10, 1.3.11a-c VLEPSC PER.03.04, ADM.06.01a, ADM.06.01c			
 Chief of Police or Designee		11/13/08 Date	

I. PURPOSE

The purpose of this directive is to establish the policy and procedure for the use of O.C. Spray and the O.C. Fogger.

II. POLICY

It is the policy of the Richmond Police Department to provide its members with O.C. Spray as a less lethal intermediate force weapon. O.C. Spray may be used to affect an arrest and/or control a situation where the threat of bodily harm exists and where the use of the issued baton or sidearm is not practical. The use of O.C. Spray is encouraged in those situations where other means of force are inappropriate or unreasonable. Only the Department-issued individual canister may be used in any enforcement action.

III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this General Order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and if appropriate, training, counseling *and*/or disciplinary action is initiated.

IV. PROCEDURE**A. General Policy – Individual O.C. Spray Canister:**

1. The O.C. Spray individual canister shall be issued to all officers who qualify on a Department-approved training course *conducted by a qualified weapons instructor* and will be carried while on-duty. Once the member has received

the initial training, he/she will be required to receive refresher training and re-qualify during in-service training. Members that are unable to complete the initial or re-certification course will not be allowed to carry the O.C. Spray. Remedial training will be offered to those who fall into this category. The initial in-service Department approved training course shall consist of a four-hour training block for Recruits. The Department's approved re-certification training course shall consist of a one-hour training block, during the officer's biennial (*every two calendar years*) in-service training. ***All training and proficiency shall be documented and maintained by the Training Division.***

2. Officers are only authorized to use the Department issued O.C. Spray individual canister, on-duty or off-duty, when acting in a law enforcement capacity.
3. At the beginning of each tour-of-duty, the O.C. Spray individual canister shall be shaken to ensure proper distribution of the O.C. agent.
4. All officers shall be responsible for maintaining a properly charged O.C. Spray individual canister. On average, an officer will get eight (8) one-second bursts from an individual canister. The shelf life for an individual canister is four (4) years. The officer shall follow established procedures for replacing the expended/*expired* canister.
5. Members of the Department will have their individual canisters inspected for serviceability during in-service training ***by the weapons instructor***. Any individual canister that is found to be defective will be replaced on that day, before the officer returns to regular duty. This does not relieve the individual officer from the responsibility of checking his/her own equipment on a regular basis.
6. Uniformed officers will carry the O.C. Spray individual canister on their duty belts in the issued carrying case.
7. Detectives, plainclothes officers and uniformed officers, in those situations where the duty belt is not worn, shall carry the O.C. Spray individual canister in a concealed manner.

B. Use of O.C. Spray Individual Canister:

1. The O.C. individual canister may be employed when persuasive speech or physical contact becomes insufficient to control or stop an aggressive act or act of resistance.
2. When employing the O.C. Spray individual canister, officers shall use short bursts, i.e. 2 or 3 seconds, for only that duration which causes the aggressive/resistive behavior to cease.
3. The O.C. Spray individual canister should not be used at distances less than three (3) feet as it may cause injury to the suspect's eyes or adversely affect the officer. However, in an extreme situation, officers may use their discretion in deploying the spray at less than recommended distances.

NOTE: O.C. Spray will not be used to threaten people or illicit information. Officers should test the function of the O.C. Spray individual canister in an area clear of individuals. O.C. Spray will not be tested in a crowd or in the immediate vicinity of any person, other than the testing officer. Additionally, it will not be used on people who are handcuffed, secured and in proper custody.

4. A Use of Force Report (PD-35) will be completed whenever the O.C. Spray individual canister is employed and an O.C. Spray – Medical Services Rendered Report form (PD-35A) shall be completed whenever an officer directly sprays a suspect. A supervisor shall submit photographs of any alleged injuries taken at the scene with the PD-35. The required photographs include any subject who is arrested following the use of O.C. Spray or any citizen who reports ill effects resulting from contact with the O.C. Spray. ***Lieutenants shall respond whenever a Sergeant deploys the spray and shall review submitted paperwork for accuracy and timeliness.***
5. ***Affected Majors shall review and properly distribute all PD-35 and PD-35A reports for accuracy, completeness and to determine if the use of the O.C. Spray was utilized in accordance with established departmental guidelines. If, after further investigation, it is determined that the utilization of the O.C. Spray was not in compliance with departmental guidelines, they shall recommend corrective and/or disciplinary action(s) up the chain-of-command.***

C. General Policy – O.C. Fogger:

1. Any officer with current certification may be issued an O.C. Fogger prior to the start of the officer's tour-of-duty at the discretion of his/her supervisor. ***Once the member has received the initial training, he/she will be required to receive refresher training during in-service training. Members that are unable to complete the initial or re-certification course will not be allowed to carry the O.C. Fogger. Remedial training will be offered to those who fall into this category.*** The O.C. Fogger is approved to be carried by SWAT and CMT personnel during normal assignments. The Precinct Commander or Division Captain shall maintain an active list of SWAT and CMT personnel under their command. It is the responsibility of the Precinct Commander or Division Captain to authorize the distribution of O.C. Foggers to specific approved personnel based upon the need and circumstance, as determined by the Commander or the Captain.
2. Supervisors shall be responsible for maintaining properly charged O.C. Foggers. On average, an officer will get sixteen (16) one-second bursts from an O.C. Fogger. The shelf life for an O.C. Fogger is four (4) years. The supervisor shall follow established procedures for replacing the expended/***expired*** canister.
3. Departmental inventory of the O.C. Foggers will be maintained at the Quartermaster's office. SWAT, CMT ***and Precincts*** may maintain an inventory at a secured location.

D. Use of O.C. Fogger:

1. The O.C. Fogger may be deployed when there is an imminent threat of injury to the officer or to a citizen. The O.C. Fogger is generally used to disperse disorderly crowds when non-deadly force is needed, but the potential to be injured is present for the responding officers or citizens. After deploying an O.C. Fogger, involved officers need to maintain a safe distance.
2. Prior to spraying a large disorderly crowd with the O.C. Fogger, the officer shall give ample warning when possible, that he/she is about to deploy an O.C. Fogger in order to minimize the possibility of an innocent bystander being exposed. Considerations for the warning shall include the use of amplification equipment, such as the Public Address system or bullhorn, if available.
3. Prior to the discharge of the O.C. Fogger for a large disorderly crowd, the officer shall advise the Division of Emergency Communications (DEC) of a Fogger discharge alert so that responding units are aware of the situation, unless circumstances prevent the officer from making the notification. DEC shall notify a supervisor, if one is not at the scene and notify the Richmond Ambulance Authority (RAA) to respond in a staging capacity. Should circumstances exist that prevent the officer from notifying DEC of the "Fogger Alert", he/she should, as soon as practical, advise DEC to notify a supervisor and the RAA.
4. The deploying officer(s) will take into consideration all safety factors before deploying the fogger. These include but are not limited to:
 - a) Citizens and police officers in the area;
 - b) Escape and evacuation routes and/or wind direction;
 - c) Travel routes of responding officers;
 - d) Crowd mentality and/or age of crowd; *and*,
 - e) Imminent threat of injury to officer or other citizens.
5. If used, the O.C. Fogger should not be directed at a person's face. The Fogger should be directed at the lower portion of the body or over the head of the crowd, unless there are extreme circumstances. When aiming at the lower portion of the body, the Fogger should not be used at distances less than three (3) feet. However, in an extreme situation, officers may use their discretion in deploying the O.C. Fogger at less than the recommended distances. The maximum effective distance of the Fogger is 10-12 feet.
6. Use of the O.C. Fogger Indoors:

Use of the O.C. Fogger in confined areas can be very hazardous and should only be considered as an option under the most extreme circumstances, after the officers have carefully considered all other options, including disengagement. Officers should weigh the totality of the circumstances they are presented with, before deploying the O.C. Fogger indoors. The size of the

structure, the number of people involved in the situation as well as access to exit area, must be considered prior to deploying the O.C. Fogger indoors.

7. A Use of Force Report (PD-35) will be completed whenever an O.C. Fogger is employed. Whenever a suspect(s) is/are directly sprayed with O.C. Spray, the officer(s) shall also complete an O.C. Spray – Medical Services Rendered Report (PD-35A) if, as a result, there are individuals who require medical attention. A supervisor shall submit photographs of any alleged injuries taken at the scene along with the PD-35. The required photographs include those of any subject who is arrested following the use of the O.C. Fogger or any citizen who reports ill effects resulting from contact with the O.C. Fogger. A photograph of the location where the O.C. Fogger was discharged shall also be attached to the PD-35.
8. A cover letter documenting the circumstances surrounding the O.C. Fogger deployment shall be completed by the officer and attached to the PD-35.
9. ***Lieutenants shall respond whenever a Sergeant deploys the spray and shall review submitted paperwork for accuracy and timeliness.***
10. ***Affected Majors shall review and properly distribute all PD-35 and PD-35A reports for accuracy, completeness and to determine if the use of the O.C. Spray was utilized in accordance with established departmental guidelines. If, after further investigation, it is determined that the utilization of the O.C. Spray was not in compliance within departmental guidelines, they shall recommend corrective and/or disciplinary action(s) up the chain-of-command.***

E. Medical Treatment for Sprayed Individuals:

1. As soon as practical after being sprayed, the individual shall be seated in an upright position and monitored for medical problems, should they occur. The arresting officer shall contact DEC to call the RAA to respond to the scene and flush the subject's eyes and face. RAA will be called in all instances where a subject has been directly sprayed. If, at any point, RAA feels the subject displays a reaction not consistent with the expected response to aerosol O.C. Spray, the subject will be transported to the Medical College of Virginia Hospital (MCV) immediately.
2. In order to avoid positional asphyxia, officers will not keep a sprayed subject in a face-down position any longer than necessary to end the threat of harm or escape and handcuff the subject as quickly as possible.
3. Officers shall not use any creams, ointments or bandages on affected areas on the sprayed subject.
4. Officers will complete an O.C. Spray/Medical Services Rendered Report (PD-35A) whenever a subject has been directly sprayed with aerosol O.C. Spray and ensure that medical services personnel sign the PD-35A before they leave the scene. The original copy of the PD-35A will be delivered with the subject

to Sheriff's personnel, a copy will be retained by the officer and a copy will be attached to the original PD-35.

F. Effectiveness Review:

1. Annually, the **OIC of the Training Academy** will review all PD-35 and PD-35A reports to determine the effectiveness of the O.C. Spray and make recommendations, through the chain of command, if there is a need for any changes.
2. The OIC of the Training **Academy** or designee will assess the use of the authorized O.C. Spray and maintain an O.C. Spray Log, which will indicate the type, description and identifying model of the O.C. Spray that is authorized for use.
3. The Internal Affairs **Division** will provide a quarterly report to the Chief of Police or designee on O.C. usage (individual canister and Fogger) to include but not limited to:
 - a) Types of deployment (individual canister or Fogger);
 - b) Number of incidents;
 - c) Locations of deployment; and,
 - d) Arrests related to O.C. Spray usage.

V. ROLES AND ACCOUNTABILITY

A. Officers shall:

1. O.C. Spray **Individual Canister**:
 - a. If qualified, carry an O.C. Spray individual canister while on-duty. While on-duty or off-duty, only use the O.C. Spray individual canister when acting in a law enforcement capacity.
 - b. After receiving initial O.C. Spray training, will be required to receive refresher training and re-qualify during biennial (**every two calendar years**) in-service training.
 - c. If unable to complete the initial or re-certification course, will not be allowed to carry the O.C. Spray and will be offered remedial training.
 - d. Carry the O.C. Spray individual canister on their duty belts in the issued carrying case; at the beginning of each tour-of-duty, shake the O.C. Spray individual canister to ensure proper distribution of the O.C. agent; and, if needed, follow established procedures for replacing the expended canister.

- e. In those situations where the duty belt is not worn, detectives and plainclothes officers shall carry the O.C. Spray individual canister in a concealed manner.
- f. Have their individual canisters inspected for serviceability during in-service training; if any individual canister is found to be defective, **he/she** will have it replaced on that day before returning to regular duty; and, on a regular basis, check his/her own equipment.
- g. May employ O.C. Spray when persuasive speech or physical contact becomes insufficient to control or stop an aggressive act or act of resistance; and, use short bursts, i.e. 2 or 3 seconds, for only that duration which causes the aggressive/resistive behavior to cease.
- h. Follow the recommended distances when deploying the O.C. Spray individual canister to avoid causing injury to the suspect's eyes or adversely affecting the officer; but in an extreme situation, may use his/her discretion in deploying the spray at less than recommended distances.
- i. Not use O.C. Spray to threaten people to illicit information or use on people who are handcuffed, secured and in proper custody.
- j. Test the function of the O.C. Spray individual canister in an area clear of individuals and not test O.C. Spray in a crowd or in the immediate vicinity of any person, other than the testing officer.
- k. Whenever the O.C. Spray individual canister is employed, complete a Use of Force Report (PD-35) and if the suspect is directly sprayed with O.C. Spray, complete an O.C. Spray – Medical Services Rendered Report form (PD-35A).

2. O.C. Fogger:

- a. Any officer with current certification may be issued an O.C. Fogger prior to the start of the officer's tour-of-duty at the discretion of his/her supervisor.
- b. Give ample warning when possible, prior to spraying a large disorderly crowd with the O.C. Fogger; advise DEC of a Fogger discharge alert so that responding units are aware of the situation, unless circumstances prevent the officer from making the notification; and, give consideration for the warning to include the use of amplification equipment, such as the Public Address system or bullhorn, if available.
- c. After deploying an O.C. Fogger, involved officers need to maintain a safe distance.
- d. As soon as practical, advise DEC to notify a supervisor and the RAA.

- e. If used, the O.C. Fogger should not be directed at a person's face; and, use discretion in deploying the O.C. Fogger at less than the recommended distances.
- f. When used indoors, the size of the structure, the number of people involved in the situation as well as access to exit area, must be considered prior to deploying the O.C. Fogger.
- g. Complete an O.C. Spray – Medical Services Rendered Report (PD-35A) whenever a subject has been directly sprayed with aerosol O.C. Spray and ensure that medical services personnel sign the PD-35A before they leave the scene. The original copy of the PD-35A will be delivered with the subject to Sheriff's personnel, a copy will be retained by the officer and a copy will be attached to the original PD-35.
- h. Complete a cover letter documenting the circumstances surrounding the O.C. Fogger deployment with the PD-35 and the PD-35A forms attached, if applicable.
- i. *As soon as practical after an individual has been sprayed*, seat the individual in an upright position and monitor for medical problems, should they occur; and, contact DEC to call the RAA to respond to the scene and flush the subject's eyes and face.
- j. Will not keep a sprayed subject in a face-down position any longer than necessary to end the threat of harm or escape and handcuff the subject as quickly as possible.
- k. Not use any creams, ointments or bandages on affected areas on the sprayed subject.

B. OICs of SWAT/CMT shall:

- 1. *Ensure that personnel* maintain properly charged O.C. Spray individual canisters as well as O.C. Foggers;
- 2. *Ensure that personnel* inspect O.C. equipment on a regular basis during roll-call;
- 3. Ensure supervisory oversight at the scene to include photographs, accuracy and timeliness of paperwork;
- 4. Maintain an inventory of O.C. Spray Foggers at a secured location; *and*,
- 5. *Authorize the distribution of O.C. Foggers to specific approved personnel based upon the need and circumstance.*

C. Supervisors shall:

- 1. Ensure that once an officer has received *and documented* the initial O.C. Spray training that he/she receives refresher training and re-qualifies;

2. Submit photographs of any alleged injuries taken at the scene with the PD-35. The required photographs include those of any subject who is arrested following the use of O.C. Spray or any citizen who reports ill effects resulting from contact with the O.C. Spray and attach to the PD-35 a photograph of the location where the O.C. Fogger was discharged; **and**,
 3. Respond to incidents where a member has deployed the O.C. Fogger and take the appropriate supervisory action.
- D. Lieutenants **shall**:
1. Respond to the scene **whenever a Sergeant deploys the O.C. spray; and**,
 2. Review paperwork for accuracy and timeliness.
- E. Commanders/Captains **shall**:
1. **Maintain an active list of SWAT and CMT personnel under their command;**
 2. **Authorize the distribution of O.C. Foggers to specific approved personnel based upon the need and circumstance;**
 3. Ensure accuracy and timeliness of reports; **and**,
 4. Disseminate the Internal Affairs **Division's** quarterly reports to improve Precinct/Division effectiveness.
- F. Quartermaster's Office **shall**:
- Maintain the Department's supply and inventory of O.C. Spray canisters and O.C. Foggers.
- G. OIC of the Training **Academy** or designee **shall**:
1. Annually review all PD-35 and PD-35A reports to determine the effectiveness of the O.C. Spray and makes recommendations, through the chain of command, if there is a need for any changes; **and**,
 2. Assess the use of the authorized O.C. Spray and maintain an O.C. Spray Log, which will indicate the type, description and identifying model of the O.C. Spray that is authorized for use.
- H. Internal Affairs **Division shall**:
- Provide a quarterly report to the Chief of Police **or designee** on O.C. usage (individual canister and Fogger) **to include but not limited to:**
1. **Types of deployment (individual canister or Fogger);**
 2. **Number of incidents;**

3. *Locations of deployment; and,*
4. *Arrests related to O.C. Spray usage.*

I. Affected Majors *shall*:

1. Review all PD-35 and PD-35A reports for accuracy, completeness and to determine if the use of the O.C. Spray was utilized in accordance with established departmental guidelines. If, after further investigation, it is determined that the utilization of the O.C. Spray was not in compliance within departmental guidelines, shall recommend corrective and/or disciplinary action(s) up the chain-of-command; *and,*
2. Properly distribute the PD-35.

J. Chief of Police or designee *shall*:

Review submitted recommendations and either concur or direct that alternate courses of action be taken.

VI. FORMS

- A. PD-35, Use of Force Report
- B. PD-35A, O.C. Spray – Medical Services Rendered Report